

IC 5-22-17

Chapter 17. Contracts

IC 5-22-17-1

Cost plus a percentage of cost contract

Sec. 1. A governmental body may not enter into a cost plus a percentage of cost contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-2

Cost reimbursement contract

Sec. 2. A governmental body may enter into a cost reimbursement contract if the purchasing agent determines in writing that the contract is likely to be less costly to the governmental body than any other contract type, or that it is impracticable to obtain the supplies required except under such a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-3

Contracts for supplies; time periods

Sec. 3. (a) This section does not apply to a discounted contractual arrangement for services or supplies funded through a designated leasing entity.

(b) Subject to subsections (c) through (e) and section 5 of this chapter, a contract for supplies may be entered into for a period not to exceed four (4) years.

(c) County and municipal hospitals may contract for the purchase of supplies for more than one (1) year but not more than five (5) years if the supplies are purchased under IC 5-22-7.

(d) The contract must specify that payment and performance obligations are subject to the appropriation and availability of funds.

(e) A political subdivision must have available a sufficient appropriation balance or an approved additional appropriation before a purchasing agent may award a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-4

Renewal of contracts

Sec. 4. (a) A contract that contains a provision for escalation of the price of the contract may be renewed under this section if the price escalation is computed using:

- (1) a commonly accepted index named in the contract; or
- (2) a formula set forth in the contract.

(b) Subject to section 5 of this chapter, with the agreement of the contractor and the purchasing agency, a contract may be renewed any number of times.

(c) The term of a renewed contract may not be longer than the term of the original contract.

As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.5.

IC 5-22-17-5

Funds not appropriated or not available; cancellation of contract

Sec. 5. (a) When the fiscal body of the governmental body makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract, the contract is considered canceled.

(b) A determination by the fiscal body that funds are not appropriated or otherwise available to support continuation of performance is final and conclusive.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-5.5

Applicability; prohibition on state contracts and grants with entities that perform abortions; appropriations; termination of contract

Sec. 5.5. (a) This section does not apply to hospitals licensed under IC 16-21-2 or ambulatory surgical centers licensed under IC 16-21-2.

(b) An agency of the state may not:

(1) enter into a contract with; or

(2) make a grant to;

any entity that performs abortions or maintains or operates a facility where abortions are performed that involves the expenditure of state funds or federal funds administered by the state.

(c) Any appropriation by the state:

(1) in a budget bill;

(2) under IC 5-19-1-3.5; or

(3) in any other law of the state;

to pay for a contract with or grant made to any entity that performs abortions or maintains or operates a facility where abortions are performed is canceled, and the money appropriated is not available for payment of any contract with or grant made to the entity that performs abortions or maintains or operates a facility where abortions are performed.

(d) For any contract with or grant made to an entity that performs abortions or maintains or operates a facility where abortions are performed covered under subsection (b), the budget agency shall make a determination that funds are not available, and the contract or grant shall be terminated under section 5 of this chapter.

As added by P.L.193-2011, SEC.1.

IC 5-22-17-6

Early performance; completion after termination date

Sec. 6. (a) The purchasing agent may specify in a contract that early performance of the contract will result in increased compensation at either:

(1) a percentage of the contract amount; or

(2) a specific dollar amount;
determined by the purchasing agent.

(b) The purchasing agent may specify in a contract that completion of the contract after the termination date of the contract will result in a deduction from the compensation in the contract at either:

(1) a percentage of the contract amount; or
(2) a specific dollar amount;
determined by the purchasing agent.

(c) Notice of inclusion of contract provisions permitted under this section in a contract must be included in the solicitation.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-7

Contract for remediation of hazardous waste site

Sec. 7. (a) As used in this section, "release" means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, or spilling into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any petroleum or hazardous substance.

(b) As used in this section, "remediation" means any of the following:

(1) Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment that may otherwise result from a release or threat of a release.

(2) Actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release of petroleum or a hazardous substance into the environment to eliminate the release of petroleum or hazardous substances so that the petroleum or hazardous substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

(3) The cleanup or removal of released petroleum or hazardous substances from the environment.

(c) Notwithstanding section 3 of this chapter, a contract for remediation of a hazardous waste site may be entered into for any period not to exceed ten (10) years. The other provisions of section 3 of this chapter apply to a contract for remediation of hazardous waste.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-8

Contract for supplies and services to implement EBT program

Sec. 8. (a) As used in this section, "division" refers to the division of family resources established by IC 12-13-1-1.

(b) As used in this section, "EBT program" refers to an electronic benefits transfer program.

(c) Notwithstanding section 3 of this chapter, the division may

enter into a contract for supplies and services to implement an EBT program for an initial period not to exceed five (5) years. The division may renew the contract for any number of successive periods not to exceed two (2) years each.

As added by P.L.49-1997, SEC.1. Amended by P.L.145-2006, SEC.15.

IC 5-22-17-9

Extension of offers to political subdivisions

Sec. 9. A contract entered into by a state agency may require the contractor to offer to political subdivisions the services or supplies that are the subject of the contract under conditions specified in the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-10

Contract for petroleum products

Sec. 10. (a) As used in this section, "petroleum products" includes the following:

- (1) Gasoline.
- (2) Fuel oils.
- (3) Lubricants.
- (4) Liquid asphalt.

(b) A purchasing agent may award a contract for petroleum products to:

- (1) the lowest responsible and responsive offeror; or
- (2) all responsible and responsive offerors.

(c) A contract entered into under this section may allow for the escalation or de-escalation of price.

(d) This subsection applies to a petroleum products contract that is awarded to all responsible and responsive offerors as provided in subsection (b). The purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide five (5) business days written notice of any change in price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memoranda. The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror, taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-11

Contract for sand, gravel, asphalt, paving materials, or crushed stone

Sec. 11. A county may award a sand, gravel, asphalt paving materials, or crushed stone contract to more than one (1) responsible and responsive offeror if both of the following apply:

(1) The specifications allow for offers to be based upon service to specific geographic areas.

(2) The contracts are awarded by geographic area.

The county is not required to describe the geographic areas in the specifications.

As added by P.L.7-1998, SEC.7.

IC 5-22-17-12

Separate contracts; awarding contract to an offeror other than the lowest offeror

Sec. 12. (a) A solicitation may provide that offers will be received and contracts will be awarded separately or for any combination of a line or a class of supplies or services contained in the solicitation.

(b) If the solicitation does not indicate how separate contracts might be awarded, the purchasing agent may award separate contracts to different offerors under this section only if the purchasing agent makes a written determination showing that the award of separate contracts is in the interest of efficiency or economy.

(c) If the purchasing agent awards a contract for a line or class of supplies or services, or any combination of lines or classes, to an offeror other than the lowest offeror, the purchasing agent must make a written determination stating the reasons for awarding a contract to that offeror.

As added by P.L.7-1998, SEC.8.

IC 5-22-17-13

Contracts for supplies or services for an unspecified number of items at a fixed price per unit

Sec. 13. A solicitation may provide that the purchasing agent will award a contract for supplies or services for an unspecified number of items at a fixed price per unit. Such a contract may include a formula or a method for escalation of the unit price.

As added by P.L.7-1998, SEC.9.

IC 5-22-17-14

Contracts involving steel products

Sec. 14. A contract awarded under this article must include the requirements of IC 5-22-15-25(c) unless the head of the purchasing agency makes a determination under IC 5-22-15-25(d).

As added by P.L.194-2001, SEC.3.